

## **§ 950.205**

## **5 CFR Ch. I (1–1–06 Edition)**

(f) No LFCC may print the campaign brochure while there are appeals of eligibility decisions from their campaign pending with the Director. LFCC's are obligated to check with OPM 21 calendar days after the mailing of the local appeal decision as to whether the Director is on notice of a pending timely appeal.

### **§ 950.205 Appeals.**

(a) Organizations who apply and are denied eligibility for inclusion on the national list will be notified of the Director's decision by registered or certified mail of the U.S. Postal Service. Organizations may appeal the Director's decision by submitting a written request to reconsider the denial to the Director. This request must be received within 10 business days from the date of receipt of the Director's decision to deny eligibility and shall be limited to those facts justifying the reversal of the original decision. Requests for reconsideration may not be used to supplement applications that had missing or outdated documents, and any such documents submitted with the request for reconsideration will not be considered.

(b) Applicants denied listing in the local brochure must first appeal in writing to the LFCC to reconsider its original decision. Such an appeal must be received by the LFCC within 7 business days from the date of receipt of the initial LFCC decision or 14 calendar days from the date the decision was mailed, whichever is earlier. The LFCC must consider all timely appeals and notify the appealing organization within a reasonable time period. Denial of the appeal by the LFCC must be sent via U.S. Postal Service certified or registered mail with a return receipt. Approval of local appeals may be sent via U.S. Postal Service regular first class mail or facsimile.

(c) A local applicant which is unsuccessful in its appeal to the LFCC may appeal to the Director. All appeals must:

- (1) Be in writing;
- (2) Be received by the Director within 10 business days of the date of receipt of the letter from the LFCC denying eligibility on appeal;

(3) Include a statement explaining the reason(s) why eligibility should be granted;

(4) Include a copy of the letter from the LFCC disapproving the original application, a copy of the organization's appeal to the LFCC, and a copy of the letter from the LFCC denying the appeal.

(d) If an organization fails to file a timely application or a timely appeal of an adverse eligibility determination in accordance with these regulations, such application or appeal to the Director will be dismissed as untimely.

(e) Appeals to the Director may not be used to supplement original applications that had missing or outdated documents. Any such supplemental documents will not be considered. Such appeals shall be limited to those facts justifying the reversal of the original decision.

(f) The Director's decision is final for administrative purposes.

### **Subpart C—Federations**

#### **§ 950.301 National federations eligibility.**

(a) The Director may recognize national federations that conform to the requirements and are eligible to receive designations. The Director may from time to time place a moratorium on the recognition of national federations.

(b) By applying for inclusion in the CFC, federations consent to allow the Director complete access to it and its members' CFC books and records and to respond to requests for information by the Director.

(c) An organization may apply to the Director for inclusion as a national federation to participate in the CFC if the applicant has, as members of its proposed federation, 15 or more charitable organizations that meet the eligibility criteria of § 950.202 and § 950.203. The initial year an organization applies for federation status, it must submit the applications of all its proposed member organizations in addition to the federation application. Federations must reestablish eligibility each year, however, the applications of its member organizations need not accompany the annual federation application once an

organization has obtained federation status, unless requested by the Director.

(d) After an organization has been granted federation status, it may certify that its member organizations meet all eligibility criteria of § 950.202 and § 950.203 to be included on the national list. Federation status in a prior campaign is not a guarantee of federation status in a subsequent campaign. Failure to meet minimum federation eligibility requirements shall not be deemed to be a decertification subject to a hearing on the record.

(e) An applicant for national federation status must annually certify and/or demonstrate:

(1) That all member organizations seeking participation in the CFC are qualified for inclusion on the national list. Applicants must provide a complete list of those member organizations it certified.

(2) That its financial records, practices and procedures conform to generally accepted accounting principles and that it is annually audited by an independent certified public accountant in accordance with generally accepted auditing standards. A copy of the audit must be included with the application. The audit must verify that the federation is honoring designations made to each member organization. The audit requirement is waived for newly created federations operating for less than a year.

(3) That it does not employ in its CFC operations the services of private consultants, consulting firms, advertising agencies or similar business organizations to perform its policy-making or decision-making functions in the CFC. It may, however, contract with entities or individuals such as banks, accountants, lawyers, and other vendors of goods and/or services to assist in accomplishing its administrative tasks.

(f) The Director will notify a federation if it is determined that the federation does not meet the eligibility requirements of this section. A federation may appeal an adverse eligibility decision in accordance with § 950.205.

(g) The Director may waive any eligibility criteria for federation status if it

is determined that such a waiver will be in the best interest of the CFC.

(h) Two organizations—American Red Cross and United Service Organization—are exempt from the 15-member requirement of § 950.301(c).

#### **§ 950.302 Responsibilities of national federations.**

(a) National federations must ensure that only those member organizations that comply with all eligibility requirements included in these regulations are certified for participation in the CFC.

(b) The Director may elect to review, accept or reject the certifications of the eligibility of the members of the national federations. If the Director requests information supporting a certification of national eligibility, that information shall be furnished promptly. Failure to furnish such information within 10 business days of the receipt of the request constitutes grounds for the denial of national eligibility of that member.

(c) The Director may elect to decertify for up to one campaign year a federation which makes a false certification, subject to the requirement that any federation that the Director proposes to decertify shall be offered the opportunity to have a hearing on the record on the proposed decertification, followed by a written decision stating the grounds for the decertification. False certifications are presumed to be deliberate. This presumption may be overcome by evidence presented at the hearing.

(d) The failure of a national federation to respond in a timely fashion to a request by the Director for required information or cooperation in an investigation or a settlement of disbursements may be grounds for decertification, provided that a decision to decertify is preceded by a hearing on the record and communicated in writing.

(e) Each federation, as fiscal agent for its member organizations, must ensure that Federal employee designations are honored in that each member organization receives its proportionate share of receipts based on the results of each individual campaign.